

REMARKS

The Applicants have carefully reviewed the Appeal Decision mailed April 28, 2011 and offer the following remarks to accompany the above amendments. The Applicants concurrently file a Request for Continued Examination.

Claims 28 and 29 were rejected under 35 U.S.C. § 103(a) in the Appeal Decision as being unpatentable over *Ricci* in view of *Ferguson*. The Applicants respectfully traverse the rejection. The Applicants have amended claims 28 and 29 to recite a server node adapted to “periodically send the subscription-based content to the client nodes.” In the Appeal Decision, the BPAI pointed out that the feature of periodically sending subscription-based content to a client node is not disclosed by *Ricci*.¹ Likewise, the Applicants have reviewed *Ferguson* and submit that *Ferguson* does not disclose or suggest periodically sending subscription-based content to a subscribing client node. As such, claims 28 and 29 are patentable over the cited references and the Applicants request that the rejection be withdrawn.

Claims 1-27 were also provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 16 and 17 of co-pending Application No. 08/814,319 in view of *Ferguson*. In an effort to expedite prosecution, the Applicants will file a terminal disclaimer if the pending claims are found to be in a condition of allowance.

Claims 9-16 and 27 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite in the Appeal Decision. The Applicants have amended claims 9 and 27 as noted above and submit that, as amended, the claims overcome the rejection under 35 U.S.C. § 112, second paragraph. Moreover, claims 10-16, which depend from claim 9, are also patentable under 35 U.S.C. § 112, second paragraph. Accordingly, the Applicants request that the rejection under 35 U.S.C. § 112, second paragraph be withdrawn.

¹ See Appeal Decision mailed April 28, 2011, page 6.

The present application is now in a condition for allowance and such action is respectfully requested. The Examiner is encouraged to contact the Applicants' representative regarding any remaining issues in an effort to expedite allowance and issuance of the present application.

Respectfully submitted,

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